

**NATIONS UNIES  
HAUT COMMISSARIAT DES NATIONS UNIES  
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME**

**Mandate of the Special Rapporteur on the situation of human rights defenders**

**UNITED NATIONS  
OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL**

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/5.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding According to the information received:

██████████ and the Group of Lawyers for the Rights of Migrants and Refugees reportedly filed two complaints against members of the Hellenic Coast Guard in relation to alleged racist statements made publicly by 39 of its members during the Greek Independence Day Parade which took place on 25 March 2011.

The accused coastguards allegedly continued marching in official formation past the designated reviewing stand in Syntagma Square, and proceeded to march along the parade route which was lined with spectators. It is reported that the coastguards shouted insulting and denigrating slogans aimed at the Albanian and Macedonian minority communities in Greece. It is alleged that the slogans included threats of violence and revenge against these minorities.

On 20 September 2011, it is reported that the members of the Hellenic Coast Guard appeared before the Naval Court of Piraneus for violation of Article 2 of the Antiracism Law 927/7 as a result of the statements made during the aforementioned parade. Outside the courthouse it is alleged that supporters of the accused shouted the same racist statements, for which the coastguards were being tried.

Messrs. ██████████ and ██████████ both reportedly testified during the preliminary examination. After the hearing of the trial, it is reported that Mr. ██████████ was pursued by supporters of the accused coastguards but he managed to escape. According to information received, the police who were present did not take any action against the agitators nor did they attempt to protect Mr. ██████████. The remainder of the trial has been postponed until 16 December 2011.

It is reported that following the trial hundreds of abusive messages and threats appeared on the internet directed at Messrs. ██████ and ██████ as well as Mr. ██████ ██████, who had asked the court to grant him standing as a civil claimant in the trial, a request which was rejected. Many of these threats allegedly contained incitement to violence against the three men as well as direct threats to their physical integrity and even their lives.

On 29 September 2011, Messrs. ██████, ██████ and ██████ reportedly filed complaints against the authors of the threatening messages and requested that the Minister of Citizen Protection provide them with police protection. It is alleged that to date no response has been received to this request.

While I do not wish to prejudge the accuracy of these allegations, I wish to draw your Excellency's attention to the right to physical and mental integrity of the above-mentioned person(s). This right is set forth in, *inter alia*, [relevant mandate allegation codes/treaties].

Without in any way implying any determination on the facts of the case, In this connection, we (I) would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

Furthermore, we (I) would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

#### RIGHT TO MEET AND ASSEMBLE PEACEFULLY

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.

#### EXCESSIVE USE OF FORCES DURING DEMONSTRATIONS

In addition, we/I would like to refer to the 2006 report to the General Assembly (A/61/312) (of the Special Representative of the Secretary-General on the situation of human rights defenders) and in particular to paragraph 98 which states that "in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement

Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials."

#### DEFENDERS MONITORING DEMONSTRATIONS

With regards to the role of media and human rights defender in monitoring demonstrations, I/we would like to refer to the Guidelines on Freedom of Peaceful Assembly of the Office for Democratic Institutions and Human Rights (ODHIR) of the Organization for Security and Cooperation in Europe (OSCE), available at [www.osce.org/odihr/item\\_11\\_23835.html](http://www.osce.org/odihr/item_11_23835.html), and to (my) 2007 report to the General Assembly (of the Special Representative of the Secretary-General on the situation of human rights defenders) (A/62/225, paras. 91 and 93) that underline how "monitoring of assemblies can provide an impartial and objective account of what takes place, including a factual record of the conduct of both participants and law enforcement officials. [...] The very presence of human rights monitors during demonstrations can deter human rights violations. It is therefore important to allow human rights defenders to operate freely in the context of freedom of assembly. [...] Journalists as well have an important role to play in providing independent coverage of demonstrations and protests. [...] The media must therefore have access to assemblies and the policing operations mounted to facilitate them.

#### YOUNG DEFENDERS AND STUDENTS IN DEMONSTRATIONS

With regards to youth defenders taking part in demonstrations, I/we would like to refer to my/the 2007 report to the General Assembly (of the Special Representative of the Secretary-General on the situation on human rights defenders) in which I/she recommend/s to "take steps to create a conducive environment that allows children and young adults to associate and express views on matters affecting them as well as on broader human rights issues. Student protests have a high educational value as they are among the first experiences of public participation and human rights defense of students. Ensuring a conducive environment for student protests is a social investment in addition to a legal obligation (A/62/225, para. 101 b),

#### RIGHT TO FORM, JOIN AND PARTICIPATE IN NON-GOVERNMENTAL ORGANIZATIONS

article 5, points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.

#### RIGHT TO SEEK, OBTAIN, RECEIVE AND HOLD INFORMATION

- article 6, point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.

#### FREEDOM OF OPINION AND EXPRESSION

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other

applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

#### RIGHT TO DISCUSS NEW IDEAS

- article 7 which states that "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance."

#### RIGHT TO PARTICIPATE TO PUBLIC AFFAIRS

- article 8, paragraph 1, which stipulates that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs."

#### RIGHT TO A FAIR TRIAL

- article 9, para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

#### RIGHT TO OFFER LEGAL ASSISTANCE

- article 9, para. 3, point c) which provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

#### RIGHT TO PHYSICAL INTEGRITY/PROTECTION GRANTED BY STATE

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

#### FUNDING HUMAN RIGHTS ACTIVITIES

- article 13, (b) and (c) which stipulate that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means.

## WOMEN'S PARTICIPATION IN NGOs

Furthermore, in the Convention on the Elimination of all Forms of Discrimination against Women, states agreed to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the right (..) to participate in non-governmental organizations and associations concerned with the public and political life of the country (Art.7(c)).

## REPRISALS

We wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, “condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

## VIOLATIONS BY NON-STATE ACTORS

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, I (we) would like to call to the attention of your Excellency's Government the Human Rights Council Resolution A/HRC/RES/13/13 of 15 April de 2010, which recognizes “the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all” as well as to adopt the necessary measures to prevent such acts. In this Resolution the Human Rights Council also “urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity.”

Furthermore, the Special Rapporteur on the situation of human rights defenders, in her report to the General Assembly A/65/223 of 4 August 2010, stated that “the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfil human rights, including those of human rights defenders. (...)” The Special Rapporteur argued that the State’s obligation to protect “first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State’s responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment.”

I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person(s) are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations

should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with the above international instruments.

Moreover, it is my responsibility under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on these cases to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim(s)?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate whether compensation has been provided to the victim or the family of the victim.
6. Please provide information on the measures taken to ensure the safety of [REDACTED].

I undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report I will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders